IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 24TH NOVEMBER 2006 / 3RD AGRAHAYANA 1928

WP(C).No. 31232 of 2006(R)

EP 397/2005 IN OS.1816/2002 of III ADDL.M.C.,TRIVANDRUM

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PETITIONER: STRAINGER

RAJ KUMAR, S/O.RAGHAVAN NADAR,
AGED 26, LEKHA BHAVAN,
VAYAMVILA, VENNIYOOR, VEGANOOR VILLAGE,
THIRUVANANTHAPURAM.

BY ADV. SRI.V.S.BABU GIREESAN

RESPONDENTS: DECREE HOLDER AND JUDGEMENT DEBTOR

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1. C.ENOSE, S/O.CHARLES,
AGED 52 YEARS, MAVARATHALA VEEDU,
VENNIYOOR, VENGANOOR VILLAGE,
THIRUVANANTHAPURAM.

2. R.RAGHEESH, S/O.RAGHAVAN NADAR,
AGED 33 YEARS, LEKHA BHAVAN,
VENGANOOR, THIRUVANANTHAPURAM.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.31232 OF 2006

Dated this the 24th day of November, 2006

JUDGMENT

All that the writ petitioner says is that one among the three items enlisted in Ext.P3 execution petition belongs to him exclusively and he is a bonafide purchaser of that item. That is not a ground to be urged for the first time in a writ petition under Article 227 of the Constitution of India. However, learned counsel for the petitioner submits that he has moved this Court only because the sale is posted tomorrow. Even that is not a ground to be urged since the petitioner would have an appropriate remedy within the scheme of order 21, to move the executing court and he has sufficient time to do so, since even if the sale is held tomorrow, it will not be confirmed even within another 30 days, going by the rules.

The writ petition is hence dismissed without prejudice.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.